

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Civil No.: 5:20-CV-00524-FL

JAMES BLACKMON, a/k/a Jimmy Andrew
Underwood, by and through his GUARDIAN OF
THE ESTATE, PAUL TRUETT CANADY, II,

Plaintiff,

vs.

JAMES HOLDER, in his individual capacity,
ANDREW MUNDAY, in his individual capacity,
and THE CITY OF RALEIGH,

Defendants.

**CITY OF RALEIGH'S
MOTION TO DISMISS**

(Rule 12(b)(6))

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, the Defendant City of Raleigh respectfully moves the Court for entry of an Order dismissing all claims against it. The claims against the City of Raleigh fail to state a claim for relief in the following respects, among others:

- Plaintiff's claims are all barred by N.C. Gen. Stat. § 1-52(16), North Carolina's statute of repose.
- In the alternative, Plaintiff's direct claims under the North Carolina Constitution fail because Plaintiff has adequate state law remedies to address the same alleged injuries.
- Plaintiff's obstruction of justice/civil conspiracy claims are barred by the intracorporate conspiracy doctrine, and a municipality cannot be a party to a civil conspiracy in any event.

Pursuant to Local Civil Rule 7.1, the Defendant City is filing an accompanying memorandum of law explaining the bases for this motion in greater detail.

For the above-stated reasons, among others, the Defendant City of Raleigh's motion to dismiss should be GRANTED and the Plaintiff's claims should be DISMISSED WITH PREJUDICE.

This the 4th day of December, 2020.

CROSSLEY McINTOSH COLLIER HANLEY & EDES, PLLC

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CERTIFICATE OF SERVICE

I certify that on December 4, 2020, I electronically filed the foregoing **City of Raleigh's Motion to Dismiss** the Clerk of Court using the CM/ECF system, which will electronically serve counsel for all parties as follows:

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This the 4th day of December, 2020.

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